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8 **UNITED STATES DISTRICT COURT**
9 **CENTRAL DISTRICT OF CALIFORNIA**
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11 WESTWOOD PARK, LTD., et al,
12 Plaintiffs,

13 v.

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15 JOHNETTA PONDER, JACQUELINE
16 PONDER, et al,
17 Defendants.

Case No. CV 22-05333-SPG-PVCx

**ORDER REMANDING ACTION AND
DENYING APPLICATION TO
PROCEED IN DISTRICT COURT
WITHOUT PREPAYING FEES OR
COSTS**

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19 The Court *sua sponte* REMANDS this action to the California Superior Court for
20 the County of Los Angeles for lack of subject matter jurisdiction, as set forth below.

21 **I. BACKGROUND**

22 On May 2, 2022, Plaintiff Westwood Park, Ltd. (“Plaintiff”) filed an unlawful
23 detainer action in Los Angeles County Superior Court against Defendants Johnetta Ponder
24 and Jacqueline Ponder (“Defendants”). (ECF No. 1 at 7). Plaintiff appears to assert that
25 Defendants failed to pay rent and failed to vacate the property after proper notice. (*Id.*).

26 On August 1, 2022, Defendants filed a Notice of Removal, invoking the Court’s
27 federal question jurisdiction. (*Id.* at 1–3). Defendants also filed Applications to Proceed
28 in District Court Without Prepaying Fees or Costs. (ECF Nos. 2, 3).

1 II. LEGAL STANDARD

2 Federal courts are courts of limited jurisdiction, with subject matter jurisdiction only
 3 over matters authorized by the Constitution and statutes. *See, e.g., Kokkonen v. Guardian*
 4 *Life Ins. Co.*, 511 U.S. 375, 377 (1994). The Court has a duty to examine its own subject
 5 matter jurisdiction. *See Arbaugh v. Y&H Corp.*, 546 U.S. 500, 514 (2006). If it finds an
 6 obvious jurisdictional issue, the Court may summarily remand a case. *See Scholastic*
 7 *Entm't, Inc. v. Fox Ent. Grp.*, 366 F.3d 982, 985 (9th Cir. 2003) (“While a party is entitled
 8 to notice and an opportunity to respond when a court contemplates dismissing a claim on
 9 the merits, it is not so when the dismissal is for lack of subject matter jurisdiction.”)
 10 (omitting internal citations). A defendant attempting to remove an action from state to
 11 federal court bears the burden of proving that jurisdiction exists. *See Scott v. Breeland*,
 12 792 F.2d 925, 927 (9th Cir. 1986). Further, there is a “strong presumption” against removal
 13 jurisdiction. *See Gaus v. Miles, Inc.*, 980 F.2d 564, 567 (9th Cir. 1992).

14 III. DISCUSSION

15 Defendant asserts this Court has subject matter jurisdiction pursuant to 28 U.S.C.
 16 §§ 1331 and 1441 (“Section 1331” and “Section 1441” respectively). (ECF No. 1 at 2).
 17 Section 1441 provides, in relevant part, that a defendant may remove a civil action to
 18 federal court when the federal court has original jurisdiction. *See* 28 U.S.C. § 1441(a).
 19 Section 1331 provides that federal “district courts shall have original jurisdiction of all civil
 20 actions arising under the Constitution, laws, or treaties of the United States.” 28 U.S.C.
 21 § 1331. However, original federal jurisdiction “exists only when a federal question is
 22 presented on the face of the plaintiff’s properly pleaded complaint.” *Caterpillar Inc. v.*
 23 *Williams*, 482 U.S. 286, 392 (1987). A case may not be removed based on a federal defense
 24 or counterclaim. *See id.* at 393; *Vaden v. Discovery Bank*, 556 U.S. 49, 59 (2009) (finding
 25 federal jurisdiction cannot rest upon an actual or anticipated counterclaim).

26 Here, the Court finds the Defendants’ invocation of federal question jurisdiction
 27 unpersuasive. Defendants, without explanation, base their removal on a federal question
 28 in their defenses or counterclaims in the state court action. *See* (ECF No. 1 at 2). However,

1 the underlying Complaint in this action appears to allege only unlawful detainer, which
2 does not arise under federal law. (ECF No. 1 at 7–10); *See Marina Admiralty Co. v. Seager*,
3 No. 2:22-cv-1007-AB (MARx), 2022 WL 575965, at *1 (C.D. Cal. Feb. 24, 2022)
4 (remanding an action to state court for lack of subject matter jurisdiction where plaintiff's
5 complaint contained only an unlawful detainer claim); *see also Wescom Credit Union v.*
6 *Dudley*, No. CV 10-8203 GAF (SSx), 2010 WL 4916578, at *2 (C.D. Cal. Nov. 22, 2010)
7 (“An unlawful detainer action does not arise under federal law.”) (citation omitted).
8 Therefore, because Plaintiff's complaint does not present a federal question, the Court
9 lacks jurisdiction under Section 1331.

10 **IV. CONCLUSION**

11 Accordingly, IT IS ORDERED that this case is REMANDED to the Superior Court
12 of California, County of Los Angeles, forthwith.

13 IT IS FURTHER ORDERED that Defendant's Application to Proceed Without
14 Prepaying Fees or Costs is DENIED as moot.

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16 **IT IS SO ORDERED.**

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18 DATED: August 4, 2022



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20 HON. SHERILYN PEACE GARNETT
21 UNITED STATES DISTRICT JUDGE
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